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SIMMONS BEDDING COMPANY
and Defendant and Counterclaimant DREAMWELL, LTD.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ZINUS, INC. a California Corporation,
Plaintiff,

v.

SIMMONS BEDDING COMPANY, a
Delaware corporation, and DREAMWELL,
LTD., a limited liability company of
Nevada,

Defendants.

Case No. 07-CV-03012-PVT

**DECLARATION OF KENNETH B. WILSON
IN SUPPORT OF STIPULATION AND
PROPOSED ORDER ENLARGING
BRIEFING SCHEDULE FOR PLAINTIFF
ZINUS' MOTION FOR SUMMARY
JUDGMENT OF NON-INFRINGEMENT
DUE TO NO DIRECT INFRINGEMENT**

Date: February 19, 2008
Time: 10:00 a.m.
Location: Courtroom 5
Before: The Honorable Patricia V. Trumbull

AND RELATED COUNTERCLAIMS

I, Kenneth B. Wilson, declare, in accordance with Civil Local Rule 6-2, as follows:

1. I am an attorney with the law firm of Perkins Coie LLP, counsel of record for defendant Simmons Bedding Company ("Simmons") and defendant and counterclaimant Dreamwell, Ltd. ("Dreamwell"). I have personal knowledge of the facts set forth in this Declaration and can testify competently to those facts.

1 2. I am the only attorney at Perkins Coie that has performed any substantive work on
2 the above-captioned litigation on behalf of Defendants since roughly August 2007, and am the
3 only lawyer with enough familiarity with the issues in the case to prepare responses to any
4 substantive motions in this matter.

5 3. On January 14, 2008, plaintiff and counterclaim defendant Zinus, Inc. ("Zinus")
6 filed a Motion for Summary Judgment of Non-Infringement Due to No Direct Infringement (the
7 "Second Motion for Summary Judgment"), and set the motion for hearing on February 19, 2008.
8 Pursuant to Local Rule 7-3, the Opposition to Zinus' Second Motion for Summary Judgment is
9 currently due on January 29, 2008.

10 4. On January 17, 2008, the Court issued an Interim Order re Plaintiff Zinus, Inc.'s
11 Motion for Reconsideration. In that Order, the Court directed Dreamwell to file a "hypothetical
12 claim" brief in connection with that motion by January 29, 2008.

13 4. I have been sick and out of the office from January 14, 2008, through today, with
14 the exception of a couple of hours in the office on January 24. As a result, and particularly in
15 light of the January 29, 2008, deadline for the "hypothetical claim" brief, I would not have the
16 time or opportunity to adequately prepare an Opposition to Zinus' Second Motion for Summary
17 Judgment on the current briefing schedule.

18 5. I have communicated with counsel for Zinus starting on January 18 about
19 continuing the hearing date, but Zinus is anxious to have its Second Motion for Summary
20 Judgment resolved at the earliest opportunity and was unwilling to extend the hearing date for the
21 motion. However, subject to the Court's approval, Zinus was willing to modify the briefing
22 schedule on Zinus' Second Motion for Summary Judgment as follows: Dreamwell's Opposition
23 to the motion would be filed on or before Tuesday, February 5, 2008, and Zinus' Reply in support
24 of the motion would be filed on or before Tuesday, February 12, 2008. The hearing on the
25 Second Motion for Summary Judgment would remain scheduled for Tuesday, February 19, 2008.
26 Accordingly, the parties have herewith submitted a Stipulation reflecting that agreement.

27 6. On July 11, 2007, the Court issued an Order Granting Defendants' Motion for
28 Enlargement of Time to Respond to Complaint, which extended the time for Defendants to

1 respond to Zinus' original Complaint by roughly three weeks. On December 18, 2007, the parties
2 filed a Stipulation Extending Time to Respond to Second Amended Complaint, and on that same
3 date the parties submitted a Stipulation and Proposed Order Enlarging Briefing Schedule for
4 Plaintiff Zinus' Motion for Reconsideration, which was subsequently approved by the Court. I do
5 not believe there have been any other previous time modifications in the case, either by
6 stipulation or Court order.

7 7. The requested time modification should not have any effect on the schedule for the
8 case.

9 I declare under penalty of perjury under the laws of the United States of America that the
10 foregoing is true and correct.

11 Executed this 25th day of January, 2008 at San Francisco, California.

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14 /s/
Kenneth B. Wilson
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